



GARY R. HERBERT
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GREGORY S. BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Task: 3949

June 15, 2011

CERTIFIED RETURN RECEIPT
7009 3410 0001 4203 1850

Dana Beck
Beck and Beck Construction
PO Box 98
American fork, Utah 84003

Subject: Proposed Assessment for State Cessation Order CO-2011-17-01, Beck/Beck Construction, Fox Canyon Mine, S/049/0080, Utah County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. Beck:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. The cessation order was issued by Division inspector, Lynn Kunzler, on February 1, 2011. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$330. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Cessation Order has been considered in determining the facts surrounding the violation and the amount of this penalty.

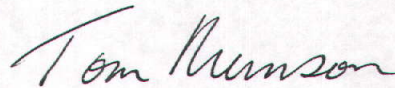
Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.

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Dana Beck
S/049/0080
June 15, 2011

The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. If you wish to review both the fact of the violation and proposed penalty assessment, you should file a written request for an assessment conference within thirty (30) days of receipt of this letter. In this case, the assessment conference will be scheduled immediately following the review of the fact of the violation.

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and will be due and payable within thirty (30) days of the date of this proposed assessment by 7/14/2011. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Tom Munson
Assessment Officer

LK:eb
Enclosure: Proposed assessment worksheet
cc: Vicki Bailey, Accounting
Vickie Southwick, Exec. Sec.
P:\GROUPS\MINERALS\WP\M049-Utah\S0490080-FoxCanyon\non-compliance\MC-2011-17-01\Asses-3949-06142011.doc

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Beck/Beck Construction Fox Canyon Mine PERMIT S/049/0080

NOV / CO # MC-2011-17-01

ASSESSMENT DATE 06/14/2011

ASSESSMENT OFFICER Tom Munson

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today=s date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>N/A</u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Environmental damage and/or damage to public
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

****The site was permitted by Lehi City, the event is unlikely to have occurred, points assigned at mid point of range.*

3. What is the extent of actual or potential damage?
RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

****Potential for damage was low.*

TOTAL SERIOUSNESS POINTS (A or B) 10

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE_____

ASSIGN NEGLIGENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

*****Operator was unaware of DOGM rules and has never had a need to permit with the Division previously.**

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

The operator is not awarded good faith points because the operator did not meet time frames for good faith points.

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

X	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	
X	Extended Compliance	0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # MC-2011-17-01

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>10</u>
III.	TOTAL NEGLIGENCE POINTS	<u>5</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>15</u>

TOTAL ASSESSED FINE	<u>\$ 330.00</u>
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